

DRAFT LETTER

Department of Finance
915 L Street
Sacramento, CA 95814
Attention: Steve Lehman

and

Secretary for Resources
1416 Ninth Street, Suite 1311
Sacramento, CA 95814
Attention: Don Wallace, Assistant Secretary for Administration/Finance

Subject: Delta Protection Commission Repayment of \$250,000 Loan from the
 Environmental License Plate Fund by December 31, 1998

Dear Gentlemen:

As you may recall, the Delta Protection Act of 1992 included a loan of \$250,000 from the Environmental License Plate Fund (ELPF) for costs incurred for organization and operation of the Delta Protection Commission (Public Resources Code, Division 19.5, Section 4). The Act also states the loan is to be repaid to the ELPF not later than December 31, 1998.

To help generate funds for the Commission's activities, the Act also included a penalty assessment in the amount of 10 percent on any fine imposed for violations in the Delta of the Fish and Game Code and the Harbors and Navigation Code (PRC, Section 29775).

During the period 1993 to present, over \$24,000 has been collected by local courts and forwarded to Fund 237, the Sacramento-San Joaquin Delta Protection Fund held by the State Controller. The money in the Fund is available upon appropriation by the Legislature "for support of the commission" (Public Resources Code, Section 29776). The Sections of the Act authorizing collection of the 10 percent penalty assessment were amended out of the Delta Protection Act 1996 (effective January 1, 1997) so no additional funds can be generated through these means.

In addition to collecting the penalty funds, the Delta Protection Commission has attempted to repay the loan through careful management of its designated monetary resources. At the end of FY 94-95, the Commission had not expended \$49,500 of the original ELPF loan; those funds were returned to the ELPF. At the end of FY 95-96, \$83,084 of the Commission's funds were unexpended; the Commission asked that those monies be forwarded to the ELPF for repayment of the loan, however, Department of Conservation staff said the request was received too late to be

To fund its FY 97-98 activities, the Commission received \$287,000 from three special funds. At the end of FY 97-98, \$44,003 was unexpended. The Commission sent a letter to Department of Conservation asking that those funds be credited toward repayment of the ELPF loan [ELPF: \$11,106; Delta Flood: \$17,751; Harbors and Watercraft: \$15,146].

*Note: all figures are from State Controller's records]

FY 94-95	\$49,500	Unexpended, returned to ELPF
FY 95-96	\$83,084	Unexpended, \$1,018 returned to ELPF; rest to other funds.
FY 96-97	\$99,354	Unexpended, \$20,957 returned to ELPF; rest also to ELPF.
FY 97-98	\$44,003	Unexpended, requested to be paid against ELPF loan.
1/93-1/97	\$24,411	Fines collected, requested to be paid against ELPF loan
<u>TOTAL</u>	<u>\$300,352</u>	

Status of Delta Protection Commission Repayment of \$250,000 Loan from ELPF:

The Commission should write to Department of Finance and Secretary for Resources to inform them that the Commission has sincerely attempted to repay the \$250,000 loan from the ELPF by returning unused ELPF funds to ELPF, by forwarding unused funds from other Special funds, and by asking the Legislature to designate the funds in the Sacramento-San Joaquin Delta Protection Fund to the ELPF. A draft letter is attached. As described above, the Commission has not expended \$275, 941; of those funds, the Commission has returned \$149,872 to the ELPF. In addition, the Commission has requested that \$68,414 (unexpended FY 97-98 funds and 10 percent penalty funds) be returned to ELPF.

Staff Recommendation:

The Commission should direct staff to send letters to Department of Finance and the Secretary for Resources asking that the Commission's efforts to repay the \$250,000 loan from the ELPF are acknowledged and meet the intent of the Delta Protection Act.

Attachment d
November 6, 1998

Subject: Status of \$250,000 Loan from the Environmental License Plate Fund

Background:

The Delta Protection Act of 1992 included a loan of \$250,000 from the Environmental License Plate Fund (ELPF) for costs incurred for organization and operation of the Commission (Public Resources Code Division 19.5 Section 4). The Act also states the loan is to be repaid to the ELPF not later than December 31, 1998.

To help generate funds for the Commission's activities, the Act also included a penalty assessment in the amount of 10 percent on any fine imposed for violations in the Delta of the Fish and Game Code and the Harbors and Navigation Code (PRC, Section 29775).

Amount of Penalty Assessments Collected:

During the period 1993 to present, \$24,411 has been collected by local courts and forwarded to Fund 237, the Sacramento-San Joaquin Delta Protection Fund, held by the State Controller. The money in the Fund is available upon appropriation by the Legislature "for support of the commission" (Public Resources Code, Section 29776). Sections 29775 and 29776 were amended out of the Delta Protection Act 1996 (effective January 1, 1997).

Status of Repayments to the ELPF:

At the end of FY 94-95, the Delta Protection Commission had not expended \$49,500 of the original ELPF loan; those funds were returned to the ELPF.

To fund its FY 95-96 activities, the Commission received \$268,000 from three special funds. At the end of FY 95-96, \$83,084 was unexpended. The Commission asked that those monies be forwarded to the ELPF for repayment of the loan, however, Department of Finance staff said the request was received too late to be processed. The residual funds were returned to the funds of origin [*ELPF: \$1,018; Delta Flood: \$39,248; Harbors and Watercraft: \$42, 818*].

To fund its FY 96-97 activities, the Commission received \$288,000 from three special funds. At the end of FY 96-97, \$99,354 was unexpended, and with permission of the special fund managers, those funds were credited toward repayment of the ELPF loan [*ELPF: \$20,957; Delta Flood: \$7,356; Harbors and Watercraft: \$71,041*].

DELTA PROTECTION COMMISSION

14215 RIVER ROAD
P.O. BOX 530
WALNUT GROVE, CA 95690
Phone (916) 776-2290
Fax (916) 776-2293



FAX

to:

Bob Franjora

fax #:

322 1786

from:

Delta Protection Commission
Maramba
(916) 776-2290

date:

2/18/99

subject:

DA

pages:

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NOTES:

processed. While \$1,018 was returned to the ELPF, the rest of the funds were returned to the Delta Flood Protection Fund and the Harbors and Waterways Fund. At the end of FY 96-97, \$99,354 was unexpended. Funds from the ELPF were returned (\$20,957), and with permission of the special fund managers, all other funds were also credited toward repayment of the ELPF loan. At the end of FY 97-98, \$44,003 of the Commission's funds were unexpended; the Commission sent a letter to Department of Conservation asking that those funds be credited toward repayment of the ELPF loan [\$11,106 were originally from the ELPF].

In total, the Commission's prudent fiscal management has resulted in \$275,941 being unexpended; of those funds, \$149,872 has already been returned directly to ELPF. An additional \$24,411 is available in the 10 percent penalty fund and \$44,003 in unexpended FY 97-98 funds should be in the process of being forwarded to ELPF.

This letter requests that the Department and the Secretary for Resources carefully review the actions of the Commission, review the funds that have been repaid to ELPF, acknowledge that additional funds can be so designated by the Legislature, and consider the unexpended funds that the Commission requested be directed toward repayment of the ELPF. After this review, the Delta Protection Commission respectfully requests that the Department and the Secretary agree that the Commission has met the requirements of PRC Division 19.5, Section 4 to the best of its ability, and that for all practical purposes the loan shall be considered repaid.

Please feel free to contact me if you have any questions about these matters. The Commission's records are available for your review at any time.

Sincerely,

Patrick N. McCarty
Executive Director

cc: Senator Patrick Johnston